

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE DIRECTOR

_____)
In the matter of administrative proceedings)
against **ABSOLUTELY THE BEST**)
CLEANERS, a sole proprietorship,)
organized under the laws of the State of)
Michigan and doing business at)
3607 Beecher Road, in the City of Flint,)
County of Genesee, State of Michigan)
_____)

AQD No. 5-2010

Establishment Number: 2500066

STIPULATION FOR ENTRY OF FINAL ORDER
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environmental Quality ("MDEQ") Air Quality Division ("AQD") that Absolutely the Best Cleaners ("Company"), located at 3607 Beecher, in the City of Flint, County of Genesee, State of Michigan, has violated Section 5522 of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and the administrative rules promulgated under Part 133, entitled Dry Cleaning, of the Public Health Code of the Public Acts of 1978, as amended. The Company has also violated the Administrative Rules promulgated under Part 133 of Act 368 of 1978 "The Public Health Code" and 40 CFR, Part 63, Subpart M, of the National Emission Standards for Hazardous Air Pollutants (NESHAP). Specifically, the Company has not maintained any records according to the 40 C.F.R., Part 63; as required by the Federal Regulations. In addition, the Company plans, local approval and a license fee were not submitted before construction of the dry cleaning establishment, nor had the Company submitted the Category III Air Quality and License fees had not been paid for 2004 and 2007 through 2009. The used filters were not stored in covered hazardous waste containers; as required. The temperature, leak detection, repair, and Perchloroethylene (perc) purchase logs were not being kept for the dry cleaning machine. The alleged violations were noted in a Violation Notice sent to the Company on May 28, 2009.

The Company and MDEQ stipulate to the termination of this proceeding by entry of a Stipulation for Entry of a Final Order by Consent ("Consent Order").

The Company and MDEQ stipulate as follows:

1. The Natural Resources and Environmental Protection Act, 1994 PA 451, ("Act 451"), MCL 324.101 et seq. is an act that controls pollution to protect the environment and natural resources in the State.
2. Article II, Pollution Control, Part 55 of Act 451 ("Part 55"), MCL 324.5501 et seq. provides for air pollution control regulations in this State.
3. The Public Health Code, 1978 PA 368, ("Act 368"), MCL 333.2233 et seq. provides for protection of the public health in this state. Part 133, Dry Cleaning of Act 368 ("Part 133"), MCL 325.17101 et seq. provides for the installation and operation of dry cleaning establishments utilizing a class IV solvent. By definition Perchloroethylene is a class IV solvent.
4. The MDEQ AQD has the delegated authority to implement the requirements of the National Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities, 40 CFR, Part 63, Subpart M. Since Perchloroethylene is identified as a hazardous air pollutant, any dry cleaning establishment utilizing Perchloroethylene is a fee subject facility as defined in Section 5501 (k) of Part 55.
5. The Company is an active establishment utilizing Perchloroethylene, a class IV solvent. Dry cleaning establishments utilizing Perchloroethylene are subject to the category III fee. Section 5522 of Part 55 stipulates the fee applicable to category III facilities.
6. The duties and responsibilities for implementation of Part 133 were transferred to the AQD by Delegation Letter AQD-01 dated September 15, 2002.
7. The Michigan Department of Natural Resources ("MDNR") is authorized pursuant to Section 5503 of Part 55 to administer and enforce all provisions of Part 55. Section 301 of Part 3 provides the authority to the Director of the MDNR to delegate powers and duties.
8. The MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 1995-18. All statutory authority, powers, duties, functions and responsibilities of the MDNR AQD were transferred to the Director of the MDEQ ("Director").
9. The Director has delegated authority to the Chief of the AQD ("AQD Chief") to enter into this Consent Order.
10. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55 is proper and acceptable.
11. The Company and the MDEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Company that the law has been violated.

12. This Consent Order becomes effective on the date of execution ("effective date of this Consent Order") by the AQD Chief.

13. The Company shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

14. The MDEQ reserves the right to pursue any other remedies to which it is entitled to for any failure of the Company to comply with Part 55 and Part 133 including their applicable administrative rules not specifically addressed and resolved by this Consent Order.

COMPLIANCE PLAN

15. On and after the effective date of this Consent Order, all of the temperature, leak detection, repair, and perc purchase logs shall be recorded in accordance with the federal NESHAP; as required. The format for those records shall be approved by the AQD Southeast Michigan District.

16. On and after the effective date of this Consent Order, the Company shall store all used filters in a covered hazardous waste container.

GENERAL PROVISIONS

17. Within thirty (30) days after the effective date of this Consent Order, the Company shall remit \$753.62 in past due Part 133 license fees. This sum reflects the Part 133 license fees which were not paid by the Company in 2004, 2007 and 2008. Payment shall be in the form of a check made payable to the "State of Michigan" and delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P. O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments made pursuant to this Consent Order must include "DCL Fee" on the face of the check.

18. The Company shall pay in past due Part 55 air fees a total of \$937.50. This sum reflects Part 55 air fees which were not paid by the Company in 2004, 2007 and 2008. The total settlement amount sum shall be made in three (3) payments as follows: The first payment of \$312.50 shall be made on or before ninety (90) days after the effective date of this Consent Order. A second (2nd) payment of \$312.50 shall be made on or before one hundred twenty days (120) after the effective date of this Consent Order. A third and final payment of \$312.50 shall be made on or before one hundred eighty (180) days after the effective date of this Consent Order. Payment shall be in the form of a check made payable to the "State of Michigan" and mailed to the Michigan Department of Environmental Quality,

Cashiers Office-DC04, P.O. Box 30460, Lansing, Michigan 48909. To ensure proper credit, all payments made pursuant to this Consent Order must include "**DC04 Air Fee**", and be returned with a copy of the air invoice which shall be attached to this Consent Order as Exhibit A.

19. The Company shall pay to the General Fund of the State of Michigan, in the form of checks made payable to the "State of Michigan" and delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$500.00 which includes AQD costs for investigation and enforcement. The total settlement amount sum shall be made in four (4) payments as follows: (1) one payment of \$125 shall be made on or before thirty (30) days after the effective date of this Consent Order. A second (2nd) payment of \$125.00 shall be made on or before one hundred twenty (120) days after the effective date of the Consent Order. A third (3rd) payment of \$125.00 shall be made on or before two hundred ten days (210) after the effective date of the Consent Order. A fourth (4th) and final payment of \$125.00 shall be made on or before three hundred (300) days after the effective date of the Consent Order. To ensure proper credit, all payments made pursuant to this Consent Order shall include the Agreement Identification No. AQD-1184 on the face of the checks. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on the Company by law.

20. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph or 16 of this Consent Order, the Company is subject to stipulated fines of \$1,000.00 per violation per day. On and after the effective date of this Consent Order, if the Company fails to comply with any other provision of this Consent Order, the Company is subject to stipulated fines of \$500.00 per violation. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion of the MDEQ. Stipulated fines submitted under this Consent Order shall be by check, payable to the "State of Michigan" within 30 days of demand and shall be delivered to the Michigan Department of Environmental Quality, Financial & Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909. To ensure proper credit, all payments shall include the Agreement Identification No. AQD-1184-S on the face of the check. Payment of stipulated fines shall not alter or modify in any way the Company's obligation to comply with the terms and conditions of this Consent Order.

21. This Consent Order in no way affects the Company's responsibility to comply with any other applicable state and federal, or local laws or regulations, including without limitation, any

amendments to the federal Clean Air Act, 42 USC 7401 et seq., Act 451, Part 55 or their rules and regulations, or to the State Implementation Plan.

22. The AQD, at its discretion, may seek stipulated fines or statutory fines for any violation of this Consent Order which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or MDEQ administrative order. However, the AQD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

23. To ensure timely payment of the settlement amount assessed in paragraph 19 and any stipulated fines assessed pursuant to paragraph 20 of this Consent Order, the Company shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under this Consent Order. The interest penalty shall be determined at a rate of twelve percent (12%) per year compounded annually, using the full increment of amount due as principal, calculated from the due date specified in this Consent Order until the date that delinquent payment is finally paid in full. Payment of an interest penalty by the Company shall be made to the State of Michigan in accordance with paragraph 20 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by the Company before any remaining balance is applied to subsequent payment amount or interest penalty.

24. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 19. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 20 of this Consent Order, but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by MDEQ of stipulated fines is made. In addition, the Company agrees that said fines have not been assessed by the MDEQ pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

25. This compliance program is not a variance subject to the 12 month limitation specified in Section 5538 of Part 55.

26. This Consent Order shall remain in full force and effect for a period of at least five (5) years. Thereafter, the Consent Order shall terminate only upon written notice of termination issued by the AQD Chief. Prior to issuance of a written notice of termination, the Company shall submit a request, to the AQD Chief at the Michigan Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that the Company has fully complied with all the requirements of this Consent Order and has made all payments including all stipulated fines required by this Consent Order. Specifically, this certification shall include: (i) the date

of compliance with each provision of the compliance program and the date any payments or stipulated fines were paid; (ii) a statement that all required information has been reported to the AQD Southeast Michigan District Supervisor; (iii) confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility; and, (iv) such information as may be requested by the AQD Chief.

27. In the event Absolutely the Best Cleaners sells or transfers the facility, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within thirty (30) calendar days, the Company shall also notify the AQD Southeast Michigan District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee. As a condition of the sale, the Company must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the AQD Southeast Michigan District Supervisor within thirty (30) days of assuming the obligations of this Consent Order.

28. Prior to the effective date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

29. Section 5530 of Part 55 may serve as a source of authority but not a limitation under which the Consent Order may be enforced. Further, Part 17 of Act 451 and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

30. The Company hereby stipulates that entry of this Consent Order is a result of an action by MDEQ to resolve alleged violations of its facility located at 3607 Beecher, in the City of Flint, State of Michigan, Michigan. The Company further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order, even if the Company files for bankruptcy in the future. The Company will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings, and the Company will take necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged. The Company, during and after any

future bankruptcy proceedings, will ensure that the settlement amount and any future stipulated fines remain an obligation to be paid in full by the Company to the extent allowed by applicable bankruptcy law.

The undersigned certifies that he/she is fully authorized by the Company to enter into this Consent Order and to execute and legally bind the Company to it.

Absolutely the Best Cleaners

Brenda R. dddley President
Print Name and Title

Brenda R. dddley Date: 1/25/10
Signature

The above signatory subscribed and sworn to before me this 25th day of January, 2010.

Sandy L. Doe
Notary Public SANDY L. DOE
NOTARY PUBLIC, STATE OF MI
COUNTY OF GENESEE
MY COMMISSION EXPIRES Jan 20, 2015
ACTING IN COUNTY OF Genesee

Approved as to Content:

G. Vinson Hellwig
G. Vinson Hellwig, Chief
AIR QUALITY DIVISION
DEPARTMENT OF
ENVIRONMENTAL QUALITY

Dated: 1/29/10

Approved as to Form:

Alan E. Hoffman
Alan E. Hoffman, Section Head
ENVIRONMENTAL REGULATION SECTION
ENVIRONMENT, NATURAL RESOURCES,
AND AGRICULTURE DIVISION
DEPARTMENT OF ATTORNEY GENERAL

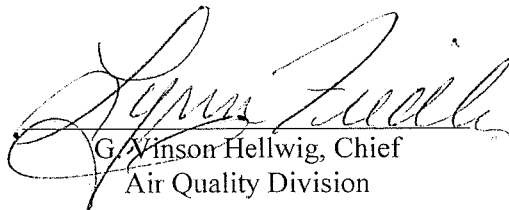
Dated: 1/27/10

FINAL ORDER

The Chief of the Air Quality Division having had opportunity to review the Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environmental Quality pursuant to the provisions of Part 55 of Act 451 and otherwise being fully advised on the premises,

HAS HEREBY ORDERED that the Consent Order is approved and shall be entered in the record of the MDEQ as a Final Order.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY



G. Vinson Hellwig, Chief
Air Quality Division

Dated: 1/29/10